

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated March 24, 2006 (hereinafter Office Action) have been considered. Reconsideration of the pending claims and allowance of the application in view of the present amendment and response is respectfully requested.

The Office Action indicated that the provisional election of the claims of Group I should be affirmed in response to the restriction requirement; Claims 8 and 18 are objected to but would be allowable if rewritten in independent form; Claims 1-6, 10-16, and 20-23 stand rejected under 35 U.S.C. §103(a) over U.S. Patent No. 4,636,741 to Mitzlaff in view of U.S. Patent No. 6,853,851 to Rautiola *et al.* (hereinafter “Rautiola”); Claims 7, 17, and 24 stand rejected under 35 U.S.C. §103(a) over Mitzlaff in view of Rautiola and in further view of U.S. Publication No. 2001/0044318 A1 to Mantyjarvi *et al.*; Claims 9 and 19 stand rejected under 35 U.S.C. §103(a) over Mitzlaff in view of Rautiola and in further view of 3GPP, Bluetooth Specification, Version 1.1, Feb. 22, pages 21-22.

With respect to the restriction requirement, Applicant affirms the provisional election of the claims of Group I (Claims 1-24). Applicant has accordingly canceled Claims 25-27 without prejudice or disclaimer and reserves the opportunity to pursue the subject matter of Claims 25-27 in a continuing application.

Applicant appreciates the indication of allowance of Claims 8 and 18 and has accordingly amended each of Claims 8 and 18 to be in independent form including limitations from their respective base claims. These amendments are believed to overcome the objection thereby rendering Claims 8 and 18 in condition for allowance; therefore, Applicant respectfully requests that the objection be removed.

Without acquiescing to characterizations of the asserted art, Applicant’s claimed subject matter, or to the applications of the asserted art or combinations thereof to Applicant’s claimed subject matter, Applicant has amended the claims to depend from Claims 8 and 18. Claims 2, 3, 7, 9, and 10 have been amended to depend from Claim 8 and Claims 12, 13, 17, 19, and 20 have been amended to depend from Claim 18. Claim 5 has been amended to depend from Claim 3 and Claim 15 has been amended to depend from

Claim 13 for reasons related to antecedent basis. The Examiner has indicated that Claims 8 and 18 are allowable; therefore, these claims are believed to be patentable as well. These claims merely include limitations of previously pending claims so the amendments do not introduce new matter. As the cited references fail to correspond to the invention as claimed, Applicant submits that the claims are allowable and the rejections should be withdrawn.

Applicant has also amended Claim 21 to include limitations directed to sending a control command, by radio terminal equipment, to one or more secondary units for changing the transmitter power or the transmitter power class of the secondary unit. Thus, the amendment to Claim 21 now includes subject matter commensurate with the allowed subject matter of Claims 8 and 18. These amendments do not introduce new matter and are believed to render Claims 21-24 patentable over the cited references for the reasons discussed above in connection with Claims 8 and 18.

In view of the above amendments, each of the pending claims is believed to be in condition for allowance.

Moreover, Applicant respectfully traverses each of the §103(a) rejections because each of the rejections relies upon the Rautiola patent, which is not an available reference for §103(a) rejections in view of 35 U.S.C. §103(c). Section 103(c) indicates that subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of 35 U.S.C. §102 shall not preclude patentability where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. MPEP §706.01(l)(1). U.S. patent 6,853,851 to Rautiola *et al.* is owned by Nokia Corporation as a result of the assignment recorded at Reel/Frame No. 011443/0096 on November 30, 2000, and the inventors of the instant invention were subject to an obligation to assign the instant invention to Nokia Corporation at the time the invention was made. That obligation was fulfilled as evidenced by the assignment of the instant application to Nokia Corporation recorded at Reel/Frame No. 014955/0808 on February 9, 2004. In view of the above-evidenced common ownership, Rautiola is not available as a §103(a) reference thereby

rendering each of the §103(a) rejections improper. Applicant accordingly requests that each of the §103(a) rejections be withdrawn.

It should be noted that Applicant does not acquiesce to the Examiner's statements or conclusions concerning what would have been obvious to one of ordinary skill in the art, obvious design choices, common knowledge at the time of Applicant's invention, officially noticed facts, and the like. Applicant reserves the right to address in detail the Examiner's characterizations, conclusions, and rejections in future prosecution.

Authorization is given to charge Deposit Account No. 50-3581 (KOLS.065PA) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact her at the number below to discuss any issues related to this case.

Respectfully submitted,

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